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Supreme Court, U.S.
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No. 84-14

IN THE

Supreme Court of the United States

OCTOBER TERM, 1983

BOARD OF TRUSTEES OF THE ALLEN CHAPEL OF THE A.M.E. CHURCH, *et al.*,

Petitioners,

v.

BETTY J. GROGANS, *et al.*,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF OHIO

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QUESTIONS PRESENTED

1. Where real property is donated by specific deed of trust in 1889 to named trustees for the benefit of a specific international, heirarchical, connectional Church denomination, may a Court quiet the title in favor of other individuals, acting as trustees of an independent religious sect, society, or denomination, organized in 1980, composed of dissident ex-members and non-members, without violating the First Amendment rights of the remaining faithful Church members?

2. May a State Court effectively terminate the beneficial, equitable interest to real estate owned since 1889 by an international, hierarchical, connectional Church denomination and transfer said interest to an independent religious sect, society or denomination organized in 1980, composed of dissident ex-members and non-members, when considerations of religious doctrine, internal church structure, and denominational practice form the basis of the determination?

3. May a State Court constitutionally adjudicate a Church property dispute involving an international, hierarchical, connectional Church, without actually adopting a "neutral principles of law" analysis?

TABLE OF CONTENTS

	Page
OPINIONS BELOW	2
JURISDICTION	3
CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR ALLOWANCE OF THE WRIT	7
CONCLUSION	16
CERTIFICATE OF SERVICE	17
APPENDIX	
Memorandum Decision of the Court of Common Pleas of Fairfield County, Ohio (May 3, 1983)	1
Judgment Entry of the Court of Common Pleas of Fairfield County, Ohio (May 17, 1983)	7
Opinion of the Court of Appeals of Fairfield County, Ohio, Fifth Ohio Appellate District (November 4, 1983)	10
Judgment Entry of the Court of Appeals of Fairfield County, Ohio, Fifth Ohio Appellate District (November 4, 1983)	16
Judgment Entry of the Supreme Court of the State of Ohio (March 8, 1984)	17
African Methodist Episcopal Church, et al. v. *T. V. Khumalo and Others*, Case No. 50326, Supreme Court of South Africa, Witwatersrand Local Division	18
Plaintiffs' Memorandum Contra Defendants' Motion to Dismiss and Plaintiffs' Trial Brief	32
Supplement to Index	
The 1980 A.M.E. Discipline	
(Copies available to the Court upon request)	

TABLE OF AUTHORITIES

Page

CASES CITED

African Methodist Episcopal Church, et al. v. *T. V. Khumalo and Others*, Case No. 50326, (1984) 13

Clay v. *Crawford*, 298 Ky. 654, 83 S. W. 2d 797 (1944). 13

Cleveland Trust Co. v. *White*, 58 Ohio App. 339, 9 Ohio 13

Fluker Community Church v. *F. B. Hitchens*, 419 So.2 445 13

Francis v. *Anthony*, 46 Ohio App. 121 (Stark 1933)..... 11

Holiman v. *Dovie*, 236 Ark. 211, 366 S. W. 2d 197 (1963) 13

Jones v. *Wolf*, 443 U.S. 595, 99 S. Ct. 302 (1979)..... 8

Kedroff v. *St. Nicholas Cathedral Russian Orthodox Church in North America*, 344 U.S. 94, 73 S. Ct. 143, 97 L. Ed. 120 (1952) 14

Kreshick v. *St. Nicholas Cathedral*, 363 U.S. 190, 80 S. Ct. 1037, 4 L. Ed. 2d 1140 (1960) 14

Maryland and Virginia v. *Sharpsburg Church*, 396 U.S. 367, 90 S. Ct. 499, 24 L. Ed. 2d 582 (1970) 15

Presbyterian Church in the United States v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. 440, 89 S. Ct. 601 (1969) 6

Serbian Eastern Orthodox Diocese, etc. v. *Milivojovich*, 426 U.S. 696, 96 S. Ct. 2372 (1976) 8

Watson v. *Jones*, 80 U.S. (13 Wall.) 679, 20 L. Ed. 666. 8

STATUTES AND REGULATIONS CITED

28 U.S.C. Section 1257(3) 3

Ohio Revised Code, Section 2109.26 11

Ohio Revised Code, Section 5303.03 4

United States Constitution:

Amendment I 3

Amendment XIV 3

Article I, Section 7, Constitution of the State of Ohio 3

MISCELLANEOUS

The Book of Discipline of the African Methodist Episcopal Church 5

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Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF OHIO

Petitioners are the African Methodist Episcopal Church, Inc., a hierarchical religious corporation organized under the laws of the State of Pennsylvania, which has had a locally affiliated Church, Allen Chapel A.M.E. Church of Lancaster, Ohio, since 1869. They pray that a Writ of Certiorari issue to review the final judgment of the Supreme Court of the State of Ohio, dated March 8, 1984, which overruled Petitioners' Motion to Certify the Record for Review of the Judgment and Opinion, entered on November 4, 1983, of the Court of Appeals for Fairfield County, Ohio, the Fifth Ohio Appellate District. The Court of Appeals had affirmed the ruling of the trial Court that Respondents were the successors in interest to title to real property, to the original Trustees of the African Methodist Episcopal Church, named as grantees in a Deed from the City of Lancaster, Ohio, dated October 28, 1889.

Respondents are named individuals,[1] some of whom were dissident members of Petitioners' local Church, Allen Chapel A.M.E. Church of Lancaster, Ohio, and some of whom were non-members. These individuals organized an unincorporated association, as a non-denominational religious body, on September 23, 1980, under the name of Allen Chapel Church, leaving "A.M.E." out of its name. Respondents became adverse below by and through the named set of individuals as Trustees for the newly organized Allen Chapel Church.

OPINIONS BELOW

The original decision of the Court of Common Pleas of Fairfield County, Ohio, on the merits, was filed May 3, 1983, in Memorandum form and is reproduced in the Appendix at pages 1-6. The Common Pleas Court's Opinion was followed by a Judgment Entry on May 17, 1983, which is reproduced at page 7 of the Appendix.

The Opinion of the Court of Appeals of Fairfield County, Ohio, the Fifth Ohio Appellate District, was issued and filed November 4, 1983, is contained in the Appendix at pages 10-15, followed at page 14, by the Judgment Entry of said Court of Appeals dated November 4, 1983.

The final Judgment of the Supreme Court of the State of Ohio, dated March 8, 1984, which overruled Petitioners' Motion to Certify the Record for Review, is contained in the Appendix at page 17.

None of these Opinions, Memorandums and/or Decisions were reported, officially or unofficially.

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[1] The individual Respondents in addition to Betty J. Grogans are: Bonnie Hall, Mary Ball, Phyllis Hawkins, Mrs. F. Stanley Carlisle, Mr. F. Stanley Carlisle, Mrs. Frances McKinley, The Negro Citizens of Lancaster, Ohio, and The Allen Chapel Church.

JURISDICTION

The final judgment of the Supreme Court of the State of Ohio was entered March 8, 1984, and this petition for a writ of certiorari will be filed on or before July 7, 1984, the date to which this Honorable Court permitted an extension of time to file by order of June 8, 1984. This Court's jurisdiction is invoked pursuant to 28 U.S.C. Section 1257(3).

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

A. First Amendment to the United States Constitution

> "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; . . . ."

B. Fourteenth Amendment to the United States Constitution

> " . . . nor shall any such State . . . deny to any person within its jurisdiction the equal protection of the laws."

C. Article I Section 7 of the Constitution of the State of Ohio:

Rights of Conscience; the Necessity of Religion and Knowledge

> "All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship, against his consent; and no preference shall be given, by law, to any religious society; nor shall any interference with the rights of conscience be permitted.
>
> * * *
>
> Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the General Assembly to pass suitable laws, to protect every religious denomination in the peaceable enjoyment of its own mode of public worship . . . ."

D. Ohio Revised Code, Chapter 53:

Section 5303.03 Petition in Action for Land

> "In an action for the recovery of real property, it is sufficient if the plaintiff states in his petition that he has a legal estate therein and is entitled to the possession thereof, describing it with such certainty as to identify the property, and that the defendant unlawfully keeps him out of the possession. It is not necessary to state how the plaintiff's estate or ownership is derived."

STATEMENT OF THE CASE

Petitioners originally brought an action in the Common Pleas Court of Fairfield County, Ohio, under Section 5303.03, Ohio Revised Code, to recover real estate located in Lancaster, Fairfield County, Ohio, possession of which had been unlawfully withheld from them by Respondents. The origin of Petitioners' claim is an 1889 deed of trust, which specifically granted said real estate to the "Trustees of the African Methodist Episcopal Church, their Successors and Assigns, Forever." (See PX. 15) Since 1869, the property was known continuously throughout the community and through the A.M.E. heirarchy as the Allen Chapel of the African Methodist Episcopal Church, until September, 1980, when Respondents first established the Allen Chapel Church, their non-denominational church, composed of ex-members and non-members of the A.M.E. congregation. Respondents counterclaimed to quiet title in its name, although their church was newly organized and there remained a loyal contingent of A.M.E. parishioners, who sought their continuing right to practice their religion within the precepts, guidelines and Discipline of the African Methodist Episcopal Church.

The record below reflects that the A.M.E. Church was founded by Bishop Richard Allen and Bishop Francis Asbury in the late 1700's, and was formally organized as a denomina-

tion at Baltimore, Maryland, in 1816. (Pl. Ex. 1, *The Book of Discipline of the African Methodist Episcopal Church*, hereinafter The Discipline). This denomination has since spread across the western hemisphere and into Africa.

Over one hundred years ago, the black citizens who had settled in and around Lancaster, Ohio, became affiliated with the A.M.E. Church and began following The Discipline of the denomination. The A.M.E. Church is an international, connectional hierarchy with very specific jurisdictional, ecclesiastical and procedural law, rules and regulations. (See PX. 1) In 1869, the A.M.E. parishioners were financially able to construct a church building and at that time the City of Lancaster was trustee to real estate donated and dedicated in trust to that religious "society that will obligate themselves to erect a house of public worship . . ." thereon. (See DX. C)

The A.M.E. parishioners (not Respondents) completed the building on the real estate in question and in 1889 the City of Lancaster gave its specific deed *in trust* to the "Trustees of the African Methodist Episcopal Church, their successors and assigns forever." (PX. 15) This A.M.E. Church was named Allen Chapel after the founder of the denomination, Bishop Richard Allen, and continuously and uninterruptedly operated as an A.M.E. Church until October 26, 1980. (Tr. pp. 129-132, 182)

The testimony and evidence presented by both Petitioners and Respondents below established that the A.M.E. Church is and has always been a connectional, hierarchical denomination and that the Allen Chapel of the A.M.E. Church had a history of continuous allegiance to the A.M.E. Church society for well over one hundred years. The indicia of this participation within the hierarchy included direct testimony and documentation to the effect that the hierarchy annually appointed the pastors to serve at the Allen Chapel A.M.E. Church; that said Church paid annual dues and made contributions to the educational funds of the national hierarchy; sent delegates to the Annual Conferences within the Third Episcopal District and otherwise participated in ecclestical governing processes and organizations; submitted to the decisions of the Bishop of the Third

Episcopal District, who presides over the South Ohio Annual Conference, within which the said local church was located; submitted reports on activities, finances and all related matters to the Annual Conference; and specifically fulfilled and observed the precepts, philosophy and Discipline of the faith. Further evidence established that the building in question bore the letters "A.M.E." above the entrance and the personal property located therein was stamped "A.M.E." as well.

The record below further discloses that the Allen Chapel A.M.E. Church permitted non-member "friends" to attend their services and participate in their religious methodology, but that these individuals were clearly designated "friends" and not members of the denomination. (See DX. B, a log book of members and "friends," *circa* 1952) The creation, in September, 1980, of the Allen Chapel Church, a non-denominational unincorporated association composed of these non-members and some dissident A.M.E. parishioners were documented at trial. The evidence further disclosed Respondents' actions in September, 1980, to gain control of the real estate, bar the pastor appointed by the A.M.E. Bishop, restrict the loyal A.M.E. parishioners' free exercise of their faith and Discipline, and otherwise expel those wishing to continue to practice their A.M.E. religious beliefs from that real estate specifically held in trust for use by those of the A.M.E. denomination.

The constitutional issues addressed by this Petition were first raised before the trial Court by Respondents' motion to dismiss petitioners' complaint which alleged in pertinent part:

> The U.S. Supreme Court in *Presbyterian Church in the United States* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. 440 (1960) held that a determination of the relationship of a local church and a parent body should apply neutral principles of law.

The Petitioners' (Plaintiffs') Memorandum Contra Respondents' (Defendents') Motion to Dismiss and Trial Brief discussed at great length the constitutional issues limiting the civil Court inquiry and establishing the need for a "neutral principal

of law" analysis to determine the controversy between these parties. (See: Appendix pp. 32-44, for entire text.) The trial Court Memorandum rules upon these issues under Section II. (See: Appendix pp. 1-7.)

These matters were later briefed by the parties on appeal, and the Opinion of the Court of Appeals, reproduced at Appendix, pp. 10 to 15, contains reference to the constitutional limitations also under Section II.

On Petitioners' appeal to the Supreme Court of the State of Ohio, the Memorandum in Support of Jurisdiction asserted but one proposition of law, as follows:

> Where real property is donated by specific deed of trust to trustees on behalf of a specific religious sect, society or denomination, it is error to quiet title in favor of individuals acting as trustees of a different religious sect, society or denomination, where the termination of said specific beneficial interest of the former in favor of the latter sect, society or denomination involves a weighing of differing religious values, doctrines and beliefs in violation of the First Amendment to the United States Constitution and Article I Section 7 of the Constitution of the State of Ohio.

That Court's refusal to accept jurisdiction to review the decisions below constituted a final adverse ruling on these matters.

REASONS FOR ALLOWANCE OF THE WRIT

A. The action of the Supreme Court of Ohio and the Lower Court decisions thereunder contravene the First and Fourteenth Amendments to the United States Constitution as constituting improper inquiries into matters of ecclesiastical cognizance and polity, and as such represent improper judicial interference with decisions of the highest authorities of a hierarchical church.

This case presents the most compelling of reasons for allowing the writ herein requested. The trial Court's decision

was erroneously based upon a weighing of the "interests of the parties," (Appendix at p. 5) built upon an unfounded and wrongful premise that a schism existed between two factions of one church; i.e. Petitioners as the parent church and Respondents as the local church. The Ohio Courts' reach their conclusions by specifically weighing these "interests" of the parties in terms of doctrine, faith, and religion, culminating in an improper infringement upon the authority of the hierarchy of an international connectional denomination.

Primary to the need for review is the fact that there exists but one African Methodist Episcopal denomination worldwide, which has existed as a consistant form of theological principal since the end of the eighteenth century. Respondents espoused a desire to pursue a non-denominational religious brotherhood, free of what they felt to be the confines of the strict religious doctrinal philosophy and ecclesiastical authority of the African Methodist Episcopal Church. Although those of the individual Respondents, who withdrew from the connectional, heirarchical Church that is the A.M.E. denomination had a right to do so, they had no legal right to take title to the real estate specifically trusted for the benefit of the African Methodist Episcopal Church. Those Respondents also had the right to form a new non-denominational organization with those Respondents, who by their stated admission never belonged to the A.M.E. Church. These Respondents could not claim any greater interest in real estate by virtue of their new church organization, their different beliefs, values or method of theology.

The First Amendment to the United States Constitution and Article I Section 7 of the Constitution of the State of Ohio clearly preclude judicial interference into the religious experience and expression of any one sect, society or denomination. Those provisions presented the Ohio Courts with an absolute bar from resolving controversies involving religious doctrine between various religious sects, societies and/or denominations. *Watson* v. *Jones*, 80 U.S. (13 Wall.) 679, 20 L. Ed. 666; *Serbian Eastern Orthodox Diocese, etc.* v. *Milivojovich*, 426 U.S. 696, 96 S. Ct. 2372 (1976); *Jones* v. *Wolf*, 443 U.S. 595, 99 S. Ct. 3020 (1979); *Presbyterian Church in the United*

States v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. 440, 89 S. Ct. 601 (1969).

An examination of the decisions below reveals that these principals, long established by this Honorable Court, were neglected by the Ohio Courts, when they permitted the recent complaints of some dissenting members and non-members of the A.M.E. Church, who wished to become a non-denominational organization, to form the basis of the Court's decisions.

B. The decisions of the Ohio Courts failed to apply "neutral principals of law" to the analysis of the title to real property gifted by specific deed of trust to Trustees of the African Methodist Episcopal Church, an international, connectional, heirarchical religious denomination.

As indicated above, this Honorable Court has established standards of analysis by which civil Courts may proceed to consider purely civil disputes, such as ownership of real estate, involving religious authority without contravening the First Amendment. This must be approached carefully, however, and requires an application of "neutral principals of law." The determination of ownership in a case such as this presents deliberate examination of trust and real estate law without reference to considerations of faith, doctrine, or ecclesiastical differences. *Jones* v. *Wolf*, *supra*.

The trial Court's errors noted under Section A above were compounded by the Court of Appeals' decision herein that the deed of trust dated 1889 "conveyed the land to the local Allen Chapel to be held in trust by local residents," (Appendix p. 13) and that the individual Respondents could, therefore, hold title as trustees. The specific deed of trust herein granted this land, not to the Allen Chapel Church (created in 1980), but to the trustees for the African Methodist Episcopal Church. This language is unambiguous. There is but one African Methodist Episcopal Church and Respondents do not claim to be that church, to worship within that denomination, or to participate in that society, sect or religious doctrine. This case differs from others which have been accepted for review by this Honorable

Court due to the existence of a specific deed of trust, which names a specific beneficiary, the identification of which was as clear and obvious in 1980 as it was in 1889.

The decision herein should have been based upon neutral principles of Ohio's trust laws, not a weighing of equities, or a determination of deviation-from-doctrine, or the degree of financial support from the A.M.E. Church to the local parish. Those concerns were immaterial and irrelevant to the proper evaluation of the property dispute, and their consideration amounts to a violation of both Ohio and United States constitutional restraints.

Under Ohio law an intervivos trust for the benefit of third parties is created upon execution and delivery to a trustee of a deed or other instrument evincing a trust purpose. *Cleveland Trust Co.* v. *White,* 58 Ohio App. 339, 9 Ohio Ops. 239, *aff'd* 134 Ohio St. 1, 11 Ohio Ops. 377 (1937). Thus the 1814 transfer by deed to the City of Lancaster, Ohio, of several parcels of land for the benefit of "any society that will obligate themselves to erect a house of public worship . . ." created a trust for a specific purpose. Transfer of title was complete upon delivery and filing of a deed. *Cleveland Trust Co.* v. *White, supra.*

In the same fashion, it was the African Methodist Episcopal society which built said "house of public worship," and upon completion of the condition precedent, title was to pass to said society. The deed in question here, dated 1889, completed the transaction by granting, from the City of Lancaster, Ohio, to the African Methodist Episcopal Church the subject lands. In 1889, other religious sects, societies and/or denominations existed throughout Ohio, but by virtue of the specific deed to the trustees of the African Methodist Episcopal society, the City of Lancaster, Ohio could not have intended to transfer title to this real estate to a then non-existent, non-denominational sect or society. Those individuals who seek to continue the practice of the A.M.E. theological doctrine, were the intended beneficiaries of the transfer in 1889 and should not be displaced by non-members, whom they permitted to share, as "friends," the house of worship constructed on this real estate, and consecrated to the A.M.E. doctrine.

Likewise, the deed of trust named specific trustees, to continue indefinitely through successors and assigns. It was stipulated below that no assignment was made of the legal estate by deed or other instrument, so that legal title could only pass by succession. This process occurred through the Discipline of the A.M.E. Church denomination throughout the time between the original grant and trial. At trial, the members of the Board of Trustees of the Annual Conference testified that they were the trustees for the African Methodist Episcopal Church, having control over all real estate in the Third Episcopal District, which includes the real estate at issue in this case.

Under Ohio law, a trust does not fail for want of a trustee, once a valid trust has been created, because the Courts have statutory authority to appoint a trustee if it becomes necessary to maintain an operative trust. *Francis* v. *Anthony,* 46 Ohio App. 121 (Stark 1933); see also Section 2109.26, Ohio Revised Code, on the subject of filling a trustee vacancy. Although Petitioner argued that the African Methodist Episcopal Church Discipline, doctrine, custom and usage dictates that the Board of Trustees of the Third Episcopal District were the proper successor trustees at time of trial, neutral principals of Ohio law dictate that the trust could not fail even upon a finding contrary to that argument. The trial Court had no authority to displace the proper beneficiary, the African Methodist Church. At no time relevant hereto, did the holder of the beneficial, equitable interest, the A.M.E. Church, appoint the individual Respondents, Stanley Carlisle, Betty Grogans or Mary Ball to be successor trustees for their interest, and the record does not contain any evidence remotely supportive of such a finding. The Ohio Courts failed to observe the requisite objectivity to determine these issues in neutral manner.

C. The Decisions of the Ohio Courts below resolving Church disputed property rights are in direct conflict with and adverse to the Court Decisions of other States and Countries; and, also are contrary to and misapply decisions of this Court in construing First Amendment Guarantees imposed on the various States by the Fourteenth Amendment.

Petitioners strongly urge, that the most important and persuasive reason that impels this Court to grant the requested

writ is, that the finality of the decisions by the Ohio Courts aborts Petitioners' First Amendment guarantees, imposed on the various States by the Fourteenth Amendment, and are in direct conflict with and adverse to decisions of other States, and are contrary to and misapply a long line of decisions by this Court.

Petitioners are mindful that the only religious controversies which both Federal and State Courts are permitted to resolve, because of the restraints of the First and Fourteenth Amendments, are those which involve property rights; and, when judicial intervention is permitted to resolve church disputes over property rights, as previously noted herein, the Courts' decisions must be void of examination of ecclesiastical doctrines and rooted in "neutral principles of law." *Watson* v. *Jones, Supra, Jones* v. *Wolf, Supra, Presbyterian Church in the United States* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church, Supra, Serbian Eastern Orthodox Diocese, etc.* v. *Milivojovich, Supra;* SEE ALSO—NOTE, Judicial Intervention in Disputes over use of Church Property, *75 Harv. L.Rev. 1142 (1962);* COMMENT, Judicial Intervention in Church Property Disputes—Some Constitutional Considerations, *74 Yale L.J. 1113 (1965).*

However, Petitioners have a right to expect, demand and receive "UNIFORMITY" and "EQUAL PROTECTION OF THE LAW" among the various States in the preservation and enforcement of its Constitutional guarantees under the First Amendment, which are imposed upon the various States by the Fourteenth Amendment. Likewise, Petitioners are constrained to insist that the State Courts of Ohio, and any and all other Courts of this Country, follow and adhere to decisions of this Honorable Court in deciding how "Church disputed property rights" are resolved.

1. *The Decisions of the Ohio Courts are in Conflict with and Adverse to the Court Decisions of other States and Countries in the Application of First Amendment Guarantees involving Church Property Disputes.*

An exhaustive listing of all State Court decisions, which have reached similiar conclusions to the decisions of this Court

regarding judicial intervention in Church disputes and how property rights are resolved, contra to the manner in which the Ohio Courts below resolved property rights in the subject case, would burden this request for a Writ; however, some typical examples are cited, as follows:

(1) ARKANSAS—*Holiman v. Dovers, 236 Ark. 211, 366 S.W. 2d 197 (1963)*

(Landmark Arkansas case on Court intervention in Church disputes)

(2) KENTUCKY—*Clay v. Crawford, 298 Ky. 654, 183 S. W. 2d 797 (1944)*

(A case with facts similiar to the subject case—part of a local congregation asserted its independence from the African Methodist Episcopal Church hierarchy, but the Court awarded the property to the minority faction loyal to the A. M. E. Church, because the local had long history of participation in A. M. E. Doctrines.)

(3) LOUISIANA—*Fluker Community Church v. F. B. Hitchens, et al., La., 419 So. 2d 445 (1982)*

(Supreme Court of Lousiana awarded property to General A. M. E. Church applying "netural principles of law", wherein a local Church had disaffiliated from the international heirarchial organization, and where the Deed of Sale conveyed to "Fluker Chapel A. M. E. Church, Fluker, Louisiana".)

(4) SOUTH AFRICA—*African Methodist Episcopal Church, et al v. T. V. Khumalo and Others, Case No. 50326, (1984)* Supreme Court of South Africa, Witwatersrand Local Division. (Appendix pages 27 thru 50)

(The Supreme Court of South Africa used two parables—"growing plants with bunches of grapes" and "Passengers on coaches of a train"—in awarding property to the A.M.E. Church as against dissident members of the Church. That Court resolved "This .... civil dispute between two groups .... to .... rights to .... property,"

consistent with opinions of Courts of the United States, and consistent with the opinions of this Court, in resolving Church property disputes in purely secular terms without resolving underlying controversies over religious doctrine and practice.)

This Court should grant certiorari to insure that the Peitioners' First Amendment rights can be exercised in Ohio as freely and unfettered as they can be exercised in other States. The decisions of the Ohio Courts have abridged this opportunity and it will be lost eternally if the requested writ is not granted.

2. *The Ohio Courts decisions below are in Conflict with and Misapply Decisions of This Court in Applying "Neutral Principles of Law" in solving Church Property Disputes.*

The variance contained in the opinion of the Ohio Courts, in this case, with established decisions of this Court, denies Petitioners "Equal Protection of the Law" in the exercise of their constitutional right of the free exercise of religion, without State interference, by judicial action. *Kreshik v. St. Nicholas Cathedral, 363 U.S. 190, 80 S. Ct. 1037, 4 L. Ed. 2d 1140 (1960).*

This Court, in a long line of consistent decisions spanning more than 100 years, from *Watson v. Jones, Supra,* in 1872, down to *Jones v. Wolf, Supra,* in 1979, has enjoined civil courts from jeopardizing First Amendment values in deciding Church Property disputes when they apply techniques which involve consideration of religious doctrine and polity.

Some of this Court's more notable and profound decisions in this regard, in addition to the two cited above, are:

(1) *Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church in North America, 344 U.S. 94, 73 S. Ct. 143, 97 L. Ed. 120 (1952).*

(2) *Kreshik v. St. Nicholas Cathedral, Supra*

(3) *Presbyterian Church in the United States v. Mary Elizabeth Blue Hull Memorial Prebyterian Church, Supra*

(4) *Maryland and Virignia Churches v. Sharpsburg Church, 396 U.S. 367, 90 S. Ct. 499, 24 L. Ed. 2d 582 (1970)*

(5) *Serbian Eastern Orthodox Diocese, etc v. Milivojevich, Supra*

The Ohio Court's decision in this case denied, by judicial action, the A.M.E. Church's legitimate representative, the presiding Bishop of the Third Episcopal District in which this property is situated, Bishop Vinton R. Anderson, the "ecclesiastical right" to control Church property, in contravention of the constitutional rule laid down by this Court in *Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church in North America, Supra*, which rule was extended to "judicial action" by this Court in *Kreshik v. St. Nicholas Cathedral, Supra.*

The need for uniformity among the various State jurisdictions insuring preservation of hallowed First Amendment rights, strongly suggests that this Court should grant the requested writ, because, in this case, the Ohio Court purportedly applied "netural principles of law" in deciding the "true congregation" which was entitled to the property, as the Court noted was the implication in the Georgia case of *Jones v. Wolf, Supra.* However this Court noted in *Wolf* that the process of identifying the "true congregation" was saturated with the First Amendment requirement of deference to the heirarchial Church's determination of that fact.

In the *Wolf* case a Presbyterial Commission was the "legitimate church representative" which made the determination of which of the local factions was the "true congregation", and the Georgia Courts denied that group's Petition for declaratory and injunctive relief. This Court granted certiorari.

Similarly to the *Wolf* case, the Ohio Courts in this case denied Petitioners' request for recovery of property unlawfully held by a local church faction. (See Appendix for these unreported decisions at pp. 1-17.) Also similar to the *Wolf* case,

the Ohio Courts purportedly applied "neutral principles of law", and decided that the defecting faction was the "true congregation" entitled to the property, in contravention to the hierarchal A.M.E. Church's legitimate representative's, Bishop Vinton R. Anderson, determination that the local defecting group was not the "true congregation".

This Court should grant certiorari here as it did in *Wolf*. The Ohio Court here misapplied the constitutional rule of "in deference to ecclesiastical determination, by the legitimate representative of a hierarchial church body, to decide the true congregation in church split disputes", as the Georgia Courts did in *Wolf*.

Should the decisions by the Courts of Ohio, which are contrary to and misapply rules laid down by this Court, enjoy any less exemption from review by this Court, than the Courts of Georgia, New York, Illinois and Maryland? The obvious answer is—NO! This Court should grant certiorari here.

CONCLUSION

For the foregoing reasons, it is submitted that a writ of certiorari should issue to review the judgment of the Supreme Court of the State of Ohio.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Richard M. Stein, attorney for the Board of Trustees of the Allen Chapel of the A.M.E. Church and the African Methodist Episcopal Church, Inc., petitioners herein, and a member of the Bar of the Supreme Court of the United States, hereby certify that on the 6th day of July, 1984, I served copies of the petition for certiorari to the Supreme Court of the United States by mailing in a secure wrapper, post-paid, to counsel for respondents as follows:

ROGER H. NORMAN, ESQ.
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Attorney for Respondents

RICHARD M. STEIN
Richard M. Stein